

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

FRANKLIN C. SMITH, on behalf of
himself and all others similarly situated

Plaintiff,

V.

LYONS, DOUGHTY & VELDHUIJS,
P.C., et al.,

Defendants.

Hon. Joseph H. Rodriguez

Civil Action No. 07-5139

ORDER

This matter having come before the Court on Defendant Lyons, Doughty, & Veldhuius's motion to partially dismiss the Complaint for failure to state a claim [7]; and Plaintiff having opposed the same; and the Court having considered the parties' submissions; and for good cause shown;

IT IS THIS 22nd day of July, 2008 hereby

ORDERED that Defendant's motion to dismiss [7] is GRANTED IN PART AND DENIED IN PART as follows:

1. Counts I and II are dismissed insofar as they attempt to state a claim for class action relief;
2. Counts III and IV are not dismissed, as Plaintiff has sufficiently stated causes of action therein;
3. Counts V, VI, and VII are dismissed in their entirety with prejudice;

4. The Complaint's demands for injunctive and declarative relief are dismissed;
and

IT IS FURTHER ORDERED that Plaintiff is granted leave of the Court so that he may, within 20 days of the date of this Order, file an Amended Complaint in which he pleads facts to support the class action claims that pertain to Counts I and II.

/s/ Joseph H. Rodriguez

JOSEPH H. RODRIGUEZ

United States District Judge